



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 26, 2012

VIA EMAIL and FIRST CLASS MAIL

Jason Torchinsky, Esq.
P. Christopher Winkelman, Esq.
Holtzman Vogel Josefiak PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

RE: MUR 6581
American Future Fund

Dear Messrs. Torchinsky and Winkelman:

On, June 22, 2012, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on behalf of your client, American Future Fund, in settlement of a violation of 2 U.S.C. §§ 434(f) and 441d, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Margaret Ritzert Howell
Attorney

Enclosure
Conciliation Agreement

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2
3 **BEFORE THE FEDERAL ELECTION COMMISSION**

4 In the matter of)
5 American Future Fund) MUR 6581
6) (formerly Pre-MUR 533)
7)

8 **CONCILIATION AGREEMENT**

9 This matter was initiated by a *sua sponte* submission filed with the Federal Election
10 Commission ("Commission") by the American Future Fund ("AFF" or "Respondent"). The
11 Commission found reason to believe that American Future Fund violated 2 U.S.C. §§ 434(f)
12 and 441d.

13 NOW, THEREFORE, the Commission and the Respondent, having participated in
14 informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree
15 as follows:

16 I. The Commission has jurisdiction over the Respondent and the subject matter of this
17 proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C.
18 § 437g(a)(4)(A)(i).

19 II. Respondent has had a reasonable opportunity to demonstrate that no action should be
20 taken in this matter.

21 III. Respondent enters voluntarily into this agreement with the Commission.

22 IV. The pertinent facts in this matter are as follows:

23 1. American Future Fund is a 501(c)(4) organization. It is registered with the
24 Commission and has filed a number of electioneering communication reports since its founding
25 in 2008.

26 2. The Federal Election Campaign Act of 1971, as amended ("the Act") requires that
27 each person who makes an aggregate disbursement of \$10,000 or more to produce and air

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1 electioneering communications must file disclosure reports with the Commission within 24 hours
2 of making the communication. 2 U.S.C. § 434(f); 11 C.F.R. § 104.20. The Act defines
3 "electioneering communication" as a broadcast, cable, or satellite communication that refers to a
4 clearly identified federal candidate and is publicly distributed within either 60 days before a
5 general election for the office sought by that candidate or 30 days of a primary election in which
6 the candidate referenced is seeking the nomination of a political party. 2 U.S.C. § 434(f)(3)(A);
7 11 C.F.R. § 100.29.

8 3. When a person who is not a candidate or authorized political committee makes a
9 disbursement for an electioneering communication, such communication must include a
10 disclaimer stating the name and permanent street address, telephone number or World Wide Web
11 address of the person who paid for the communication, and state that the communication was not
12 authorized by any candidate or the candidate's committee. 2 U.S.C. § 441d(a); 11 C.F.R.
13 § 110.11(b)(3). Further, disclaimers on television ads must include an audio statement as to who
14 or what group is responsible for the content of the advertisement. 2 U.S.C. § 441d(d)(2);
15 11 C.F.R. § 110.11(c)(4)(i)-(ii).

16 4. From March 7 to March 11, 2012, during the 30 day period prior to the presidential
17 primaries in Maryland and the District of Columbia, Respondent aired a cable television
18 advertisement that clearly referred to and featured television footage of President Obama, who
19 was a candidate for the Democratic Party's presidential nomination in the primary elections in
20 both jurisdictions. Respondent spent \$29,205.62 to produce and distribute this advertisement in
21 Virginia, Maryland, and the District of Columbia. The portion of these costs allocable to the
22 ad's broadcast in Maryland the District of Columbia exceeds the \$10,000 threshold provided by
23 the statute, and therefore Respondent should have filed electioneering communication reports by

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1 March 8, 2012. However, Respondent filed the electioneering communication reports four days
2 late, on March 12.

3 5. The advertisement contained a written disclaimer stating that it was "Paid for by
4 American Future Fund" and identifying AFP's web address, but did not include a statement that
5 the communication was not authorized by any candidate or candidate's committee, or an audio
6 statement as to who or what group is responsible for the content of the advertisement.

7 V. 1. Respondent violated 2 U.S.C. § 434(f) by failing to file the electioneering
8 communication reports on time.

9 2. Respondent violated 2 U.S.C. § 441d by failing to fully comply with the
10 disclaimer requirements for electioneering communications.

11 VI. 1. Respondent will pay a civil penalty to the Commission in the amount of
12 \$1,000, pursuant to 2 U.S.C. § 437g(a)(5)(B).

13 2. Respondent will cease and desist in committing violations of 2 U.S.C.
14 §§ 434(f) and 441d.

15 VII. The Commission, on request of anyone filing a complaint under 2 U.S.C.
16 § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance
17 with this agreement. If the Commission believes that this agreement or any requirement thereof
18 has been violated, it may institute a civil action for relief in the United States District Court for
19 the District of Columbia.

20 VIII. This agreement shall become effective as of the date that all parties hereto have
21 executed same and the Commission has approved the entire agreement.

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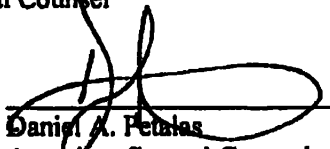
1 IX. Respondent shall have no more than 30 days from the date this agreement becomes
2 effective to comply with and implement the requirements contained in this agreement and to so
3 notify the Commission.

4 X. This Conciliation Agreement constitutes the entire agreement between the parties on
5 the matters raised herein, and no other statement, promise, or agreement, either written or oral,
6 made by either party or by agents of either party, that is not contained within this written
7 agreement shall be enforceable.

8 FOR THE COMMISSION:


9 Anthony Herman
10 General Counsel

11 BY:

12 
13 Daniel A. Petalas
14 Associate General Counsel
for Enforcement

6/27/12
Date

15 FOR THE RESPONDENT:

16 
17 (Name) P. Christopher Winkelman, Esq.
18 (Title) Counsel to American Future Fund

6/14/12
Date